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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/827,022	04/04/2001	Harry Staples	41179/JEC/X2	4837

35114 7590 11/19/2004

ALCATEL INTERNETWORKING, INC.
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EXAMINER	
MURPHY, RHONDA L	
ART UNIT	PAPER NUMBER
2667	

DATE MAILED: 11/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/827,022	STAPLES ET AL.	
	Examiner	Art Unit	
	Rhonda Murphy	2667	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-38* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-38* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *04 April 2001* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *4/15/03*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: telephone connection "**203**" in Figure 2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claims 27 and 28 are objected to because of the following informalities: Claim 27 should be dependent upon claim 26, since claim 27 further defines the inbound local signals as described in claim 26. Claim 28 fails to use consistent language in describing the inbound first signal, which is referred to as the inbound "**telephone call**" in line 7. "Telephone call" shall be replaced with "**first signal**" to maintain consistent language. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Chang et al. (US 2003/0095542).

Regarding claims 1,5,10,11,19,28,29 and 37, Chang teaches a communication switch (Fig. 19, **caller gateway server 26**) in a voice communication network (Fig. 19) comprising: an input for receiving an inbound first signal (Fig. 19, line **35**); a circuit transitioning from a first state to a second state (Fig. 19, **analog driver 67**; first state: call routed between caller **38** and caller **138** through IP network **18**; second state: call routed between caller **38** and caller **138** through PSTN **16**; page 18, paragraph 196); a processor coupled to the circuit (Fig. 3, **communications subsystem 58**, located within server 26), the processor configured to detect an occurrence of an operational condition (page 8, paragraph 104; and page 18, paragraph 196, second column: **when the QoS has fallen below the level specified by the system administrator**), and transmit a second signal to the circuit for transitioning the circuit from the first state to the second state upon detecting the operational condition (Fig. 20, page 18, paragraph 196); a first output transmitting the inbound first signal over a data network if the circuit is in the first

state and prior to occurrence of a failure condition (Fig. 19, shown as a dashed line from caller **38**, to IP network **18**, to caller **138**; page 18, paragraph 196); and a second output transmitting the inbound first signal over a telephone network if the circuit is in the second state (Fig. 21, shown as a solid line from caller **38**, to PSTN **16**, to caller **138**; page 18, paragraph 196; **thereby establishing the telephone call via the PST network**).

Regarding claims 2,12,24 and 35, Chang teaches first inbound signals as non-local telephone calls (page 18, paragraph 196; VoIP calls are routed over long distances).

Regarding claims 3,13,26 and 36, Chang teaches the circuit passing inbound local signals directed to a local host to an internal switch (Fig. 3, **station 73**; page 8, paragraph 112) for internally routing the inbound local signals to the telephone network when the circuit in the first state (page 9, paragraph 116).

Regarding claims 4,14 and 27, Chang teaches the inbound local signals as local telephone calls (page 9, paragraph 116).

Regarding claims 6,15,20 and 30, Chang teaches the operational condition as a failure condition (page 18, paragraph 196, second column: **when the QoS has fallen below the level specified by the system administrator**).

Regarding claims 7,16,21 and 31, Chang teaches the operational condition as a transmission error (page 18, paragraph 196, second column: **when the QoS has fallen below the level specified by the system administrator**).

Regarding claims 8,17,23 and 33, Chang teaches the operational condition as a power loss (page 18, paragraph 196, second column: **when the QoS has fallen below the level specified by the system administrator**).

Regarding claims 9,18,22 and 32 Chang teaches the operational condition as a malfunction of a portion of the communication switch (page 18, paragraph 196, second column: **when the QoS has fallen below the level specified by the system administrator**).

Regarding claims 25 and 34, Chang teaches the second signal as a transitioning signal for transitioning the fail-over circuit (Fig. 20, page 18, paragraph 196).

Regarding claim 38, Chang teaches the communication switch redirects inbound signals to the telephone network connection after the occurrence of the failure condition (page 18, paragraph 196).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

*Norris et al (US 6,353,611) discloses a call waiting feature for a telephone line connected to the internet.

*Dunn et al. (US 6,324,280) discloses an optimum routing of calls over the public switched telephone network and the internet.

*Chen (US 6,463,053) discloses a voice-and-fax-over IP dialing plan.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rhonda Murphy whose telephone number is (571) 272-3185. The examiner can normally be reached on Monday - Friday 8:00 - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on (571) 272-3139. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

rlm

RICKY NGO
PRIMARY EXAMINER
11/14/04